



# CALIFORNIA STATE BOARD OF EDUCATION

## MAY 2004 AGENDA

### SUBJECT

Instructional Materials: Adopt Proposed Amendments to Title 5, Sections 9515 and 9517, and Addition of Section 9517.1 for Follow-up Adoptions

☒ **Action**

☒ **Information**

☐ **Public Hearing**

### RECOMMENDATION

Consider comments received during the public comment period and at the public hearing and take action to adopt regulations.

### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the March 2004 meeting, the State Board of Education approved commencement of the rulemaking process for regulations regarding follow-up adoptions. Written comments must be received by 5:00 p.m. on May 10, 2004. A public hearing will be conducted by staff on May 10, 2004.

### SUMMARY OF KEY ISSUES

The State Board of Education is charged under Article IX, Section 7.5 of the *California Constitution* with the responsibility for adopting instructional materials for grades one through eight. Kindergarten was added to the adoption by *Education Code* Section 60200. In 1927, the Legislature established an advisory body, the Curriculum Development and Supplemental Materials Commission (commonly referred to as the Curriculum Commission) to assist the Board with this function.

*Education Code* Section 60200(b)(1) calls for adoptions to occur “not less than two times every six years” for language arts, mathematics, science, and history-social science and “not less than two times every eight years” in other subjects. The first instructional materials adoption following the State Board of Education adoption of new evaluation criteria is termed a “primary adoption” and creates a new adoption list. A follow-up adoption is any additional adoption conducted during the six- or eight-year time frame and is conducted using the same evaluation criteria as the primary adoption. A follow-up adoption adds instructional materials to the existing adoption list for the remainder of the list’s term.

Due to significant budget cuts to the Department, the follow-up adoptions that had been scheduled for 2003 (in history-social science, science, and visual and performing arts) have yet to be conducted. Additional follow-up adoptions had been planned for 2004 in mathematics and reading/language arts.

Senate Bill 1058 (Chapter 806, Statutes of 2003) gives the Department the authority to collect a fee from publishers and manufacturers of instructional materials to participate in a follow-up adoption and partially offset the follow-up adoption's cost. It also includes provisions for a reduction of the fee for small publishers and manufacturers. This bill provides greater flexibility in funding to conduct follow-up adoptions and add materials to existing adoption lists.

The proposed regulations to implement Senate Bill 1058:

- Clarify that follow-up adoptions use the same *Invitation to Submit* document and evaluation criteria as that used in the primary adoption.
- Define the term "primary adoption."
- Include the publisher and manufacturer fee of \$5,000 per program per grade level submitted for review.
- List the documentation required to establish that a publisher or manufacturer meets the definition of "small publisher" or "small manufacturer" for consideration by the Board to qualify for a reduction of the otherwise-required fee.

The Department's experience has been that the actual cost of a follow-up adoption (involving multiple submissions) ranged from \$120,000-\$150,000 depending on the number of programs submitted for review. The costs included travel and meeting expenses for reviewers and commissioners to attend training/re-training and deliberations. This overall figure does not take into account staff costs of approximately \$475,000 to conduct follow-up adoptions. Based on these approximations, we recommend that the follow-up adoption fee for an individual submission be set at \$5,000 per grade level.

The proposed fee was developed based upon this reasonable estimate of the historical costs of follow-up adoptions and is designed to be partial and not result in any profit (fee revenue in excess of costs) being made on programs submitted for follow-up adoption. The proposed fee reflects savings that are likely because training/re-training costs should be substantially lower than for a primary adoption, as should travel and meeting costs. However, reviewers will be paid a stipend for participating in the follow-up adoption, and there will continue to be some travel and meeting costs. Even with modification of the process, we anticipate no reduction in the need for staff and state operations costs required to conduct the follow-up adoptions.

If action is taken at this meeting, the regulations could likely go into effect by October 2004 and follow-up adoptions could begin shortly thereafter.

The process and estimated time line for approval of these regulations includes the following steps:

- March 11, 2004 – Board action to approve proposed regulations for purposes of beginning the rule making
- March 26, 2004 – Notice for publication in the Notice Register (published on Fridays)

- May 10, 2004 – 45-day public comment period ends
- May 10, 2004 – Public hearing conducted, response to comments prepared
- May 13, 2004 – Board action to adopt regulations or approve changes based on comments received
- May 26, 2004 – Additional 15-day public comment period required if substantive changes are made to the proposed regulations with resubmission to the Board in September
- Once approved by the Board, the Office of Administrative Law (OAL) has 30 working days to review and approve/disapprove the regulations.
- Once approved by OAL, the Secretary of State's Office (SOS) has 30 calendar days to put the regulations into effect.

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**FISCAL ANALYSIS (AS APPROPRIATE)**

Under SB 1058, the Department is authorized to collect a fee to cover the cost of follow-up adoptions. The proposed fee represents a reasonable estimate of the cost to conduct a review and will be based on the number of programs submitted and the number of grade levels covered by each program. The bill gives the Board authority to reduce the fee for small publishers and manufacturers.

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**ATTACHMENTS**

[Attachment 1](#): Proposed Title 5 Regulations to Implement Follow-up Adoptions (6 Pages)

[Attachment 2](#): Initial Statement of Reasons (2 Pages)

[Attachment 3](#): Informative Digest (1 Page)

[Attachment 4](#): Notice of Proposed Rulemaking (4 Pages)

Attachment 5: Economic and Fiscal Impact Statement (2 Pages)

(This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board office.)

[Attachment 6](#): Senate Bill 1058 (Chapter 806, Statutes of 2003) (2 Pages)

[Attachment 7](#): Schedule for Curriculum Framework Development and Adoption of K-8 Instructional Materials (1 Page)

**Last Minute Memorandum will include:**

- Summary of Written Comments Received
- Report on Public Hearing

DRAFT

**CALIFORNIA CODE OF REGULATIONS**

**TITLE 5. EDUCATION**

**Division 1. State Department of Education**

**Chapter 9. Instructional Materials**

**Subchapter 1. Elementary Instructional Materials**

**Article 2.1. Adoption of Curriculum Frameworks and Instructional Materials –  
Procedures**

*Amend Sections 9515 and 9517 to read:*

**§9515. Definitions.**

(a) “Board” means the State Board of Education.

(b) “Curriculum Commission” means the Curriculum Development and Supplemental Materials Commission.

(c) “Department” means the California Department of Education.

(d) “Schedule of Significant Events” means the dates promulgated by the Department in the “Invitation to Submit Basic Instructional Materials for Adoption in California.”

(e) “Period of Adoption” means the period of time that the instructional materials shall remain in adoption. This time period shall be specified in the “Schedule of Significant Events.”

(f) “Primary Adoption” means the first instructional materials adoption following the approval of new evaluation criteria by the Board.

NOTE: Authority cited: Sections 33031 and ~~60004~~60206, Education Code. Reference: ~~Sections 33539, 60019, 60020 and 60200~~Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

**§9517. Invitation to Submit Basic Instructional Materials for Adoption.**

The Board shall ensure that a written notice of an upcoming primary and follow-up adoption of instructional materials is posted on the Department Website and mailed to every person or firm who has submitted a request for notice to the Department and to

1 any person or firm whom the Department, in its judgment, deems to be interested in the  
2 notice. This notice shall be known as the Invitation to Submit Basic Instructional  
3 Materials for Adoption in California. The failure to mail an invitation to any person as  
4 provided in this section shall not invalidate any action taken by the Board, Curriculum  
5 Commission, or Department.

6 With respect to the submission of instructional materials for adoption by the Board,  
7 publishers and manufacturers shall comply with the following requirements:

8 (a) Instructional materials may be submitted in any language, but essential teachers'  
9 materials shall be included in English.

10 (b) Publishers and manufacturers shall indicate, either in the teacher's edition or in  
11 the student's edition or both, which literary works contained in the student's edition or  
12 teacher's edition have been abridged, adapted, or excerpted. Publishers and  
13 manufacturers shall provide detailed descriptions of these changes upon request by the  
14 Department or local educational agencies.

15 (c) Publishers and manufacturers shall list, either in the teacher's edition or in the  
16 student's edition or both, only authors, reviewers, consultants, advisors, field-test  
17 teachers, and others who actually contributed to the development of the materials and  
18 shall indicate, for those who are listed, in what capacity they served. Publishers and  
19 manufacturers shall provide additional related information upon request by the  
20 Department or local educational agencies.

21 (d) Education Code sections 32060-32066 prohibit the purchase of toxic art or craft  
22 supplies for grades kindergarten through six and allow their purchase for grades seven  
23 through twelve only if they display a warning label. Publishers and manufacturers shall  
24 ensure that all art or craft materials included or suggested in their instructional materials  
25 comply with the requirements of these Education Code sections.

26 (e) On or before 5:00 P.M. of the date specified in the Schedule of Significant  
27 Events, which is included in the Invitation to Submit Basic Instructional Materials for  
28 Adoption, publishers and manufacturers shall provide to the Department a list of all  
29 instructional materials that will be submitted for adoption. Receipt of submission  
30 information after this deadline shall result in disqualification of the instructional materials

1 from further consideration in the current adoption unless publishers or manufacturers  
2 can show extenuating and compelling circumstances beyond their control.

3 (f) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events,  
4 publishers and manufacturers shall deliver samples of instructional materials to the  
5 evaluators and locations specified by the Department. Failure to meet the deadline for  
6 delivery of samples shall result in disqualification of the instructional materials from  
7 further consideration in the current adoption unless the publisher or manufacturer can  
8 show extenuating and compelling circumstances involving natural disasters or  
9 independent carriers beyond the control of the publishers and manufacturers. In  
10 addition:

11 (1) Publishers and manufacturers shall deliver all samples in final form (i.e., a form  
12 that will be offered for purchase over the period of adoption) unless written permission  
13 to submit a sample in other than final form is obtained from the Department before any  
14 samples are shipped.

15 (2) Publishers and manufacturers shall deliver all samples free of shipping, handling,  
16 sampling, or other charges.

17 (3) After the final date for delivery of samples, changes or modifications to  
18 instructional materials during the adoption review period by the publisher or  
19 manufacturer shall result in disqualification of the materials from the adoption unless  
20 those changes or modifications are made pursuant to the Board's social content review  
21 or educational content review.

22 (4) Publishers and manufacturers shall retrieve samples of nonadopted instructional  
23 materials from display centers during the first thirty (30) days following the date of Board  
24 adoption. The deadline for retrieval shall be specified in the Schedule of Significant  
25 Events in the invitation. All materials shall be retrieved without any cost to the display  
26 center or its staff. Display center directors may dispose of or donate for educational use  
27 any samples of instructional materials not retrieved within the 30-day period. Board and  
28 Curriculum Commission members, instructional materials reviewers, and Department  
29 staff may offer their samples back to publishers and manufacturers, retain their

1 samples, or donate them, provided that the materials are used to benefit public  
2 education in California.

3 (g) On or before 5:00 P.M. of the date specified in the Schedule of Significant  
4 Events, publishers and manufacturers shall submit to the Department price quotations  
5 (bids) for the sale of completed materials, including all transportation costs.

6 (h) Publishers and manufacturers are discouraged from withdrawing from a state  
7 adoption after the submission of their materials. No publisher or manufacturer may  
8 withdraw their submitted instructional materials from a state adoption within seven  
9 working days prior to the beginning of the ~~Instructional Resources Evaluation~~ Materials  
10 Advisory Panel educational content deliberations, which date(s) shall be specified in the  
11 Schedule of Significant Events. Publishers and manufacturers withdrawing prior to this  
12 date shall be so noted in the Curriculum Commission's report of adoption  
13 recommendations.

14 (i) Other than during the times specified in the Schedule of Significant Events,  
15 publishers and manufacturers shall not contact ~~Instructional Resources Evaluation~~  
16 Materials Advisory Panel members during their tenure to discuss anything related to the  
17 state evaluation or state adoption of materials. Contact initiated by publishers or  
18 manufacturers regarding the evaluation or adoption of materials may lead to  
19 disqualification of the publisher's or manufacturer's materials from further consideration  
20 in the current adoption, legal action, or both. ~~Instructional Resources Evaluation~~  
21 Materials Advisory Panel members shall not discuss materials under adoption  
22 consideration with publishers or manufacturers or their spokespeople or  
23 representatives.

24 (j) Publishers and manufacturers shall not publicize in printed marketing materials  
25 any part of the ~~Instructional Resources Evaluation~~ Materials Advisory Panel Report.

26 (k) Follow-up adoptions shall be based on the Invitation to Submit Basic Instructional  
27 Materials and evaluation criteria issued for the primary adoption. A new Schedule of  
28 Significant Events shall be approved prior to implementing a follow-up adoption.

NOTE: Authority cited: Sections 33031 and ~~60004~~60206, Education Code. Reference: Sections 32060-32066, ~~60071~~ and ~~60200-60222~~and Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

*Add Section 9517.1 to read:*

**§9517.1 Follow-up adoptions: notice to publishers and manufacturers, intent to submit, fee, list of adopted materials.**

Follow-up adoptions shall be conducted according to the following requirements:

(a) The Board shall ensure that a written notice of an upcoming follow-up adoption in a given subject is posted on the Department Website and mailed to all publishers or manufacturers known to produce instructional materials in that subject. The notice shall include:

(1) A "Schedule of Significant Events."

(2) Specifications for "Intent to Submit."

(b) Each publisher or manufacturer shall provide an "Intent to Submit" that specifies the following:

(1) Number of programs that the publisher or manufacturer will submit.

(2) Number of grade levels covered by each program.

(c) Based on the specifications in subdivision (b) as reported in the "Intent to Submit," the Department shall assess a fee of \$5,000 per grade level submitted for review.

(d) A "small publisher" or "small manufacturer," as defined in Education Code Section 60227(f)(3), may request a reduction of the fee by submitting documentation that includes, but is not limited to, the following:

(1) A statement of earnings for the most recent three fiscal years.

(2) Number of full-time employees excluding contracted employees.

(3) A statement verifying that the small publisher or small manufacturer is not dominant in its field for the subject matter being submitted for follow-up adoption.



1       (e) Instructional materials approved by the Board in a follow-up adoption shall be  
2 added to the existing adoption list for that subject and remain on the list until the  
3 established expiration date for that list.

4 NOTE: Authority cited: Section 33031 and 60206, Education Code. Reference: Chapter  
5 2 of Part 33 (commencing with Section 60200), Education Code.

## **INITIAL STATEMENT OF REASONS**

### **SECTIONS 9515, 9517 and 9517.1**

#### **SPECIFIC PURPOSE OF THE AMENDED REGULATIONS**

The proposed amendments provide clarification regarding primary and follow-up adoptions and minor revisions that reflect current practice. The new section provides for the implementation of *Education Code* Section 60227. Specifically, the regulations clarify the steps and requirements for conducting a follow-up adoption, including the fee to be assessed the publishers and manufacturers to participate in a follow-up adoption.

#### **NECESSITY/RATIONALE**

The existing regulations in the *California Code of Regulations* sections 9515 and 9517 were last amended in 1994. Since that time there have been changes in practice that were not reflected in the existing regulations. *Education Code* Section 60227, recently enacted into law, specifically provides for payment of a fee by publishers and manufacturers to participate in follow-up adoptions. The revisions proposed include changes to reflect current practice, definition of primary adoptions, clarification of the process to be used and the fee to be assessed for the follow-up adoptions.

#### **Section 9515. Definitions**

The amendments include the definition of “primary adoption.”

#### **Section 9517. Invitation to Submit Basic Instructional Materials for Adoption**

The amendments reflect changes in practice and terminology including that notices of upcoming adoptions are posted on the Department Web site and the review panels are now called Instructional Materials Advisory Panels (IMAP).

The amendments clarify that the follow-up adoptions are based on the same Invitation to Submit and evaluation criteria as the primary adoption.

#### **Section 9517.1. Follow-up adoptions**

The regulations specify the distribution of a notice of an upcoming follow-up adoption by the Department and the requirements for publishers and manufacturers to participate in the follow-up adoption.

The regulations establish a fee for publisher and manufacturer participation in the follow-up adoption and requirements to qualify for a reduction in the fee for a “small publisher” or “small manufacturer.”

The regulations clarify that materials are added to an existing adoption list through the follow-up adoption process and do not create a new adoption list or a new expiration date.

Note: Authority cited: Sections 33031 and 60206, *Education Code*. Reference: Chapter 2 of Part 33 (commencing with Section 60200), *Education Code*.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The State Board did not rely on any other technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of this regulation.

#### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

There are no other reasonable alternatives to the creation of rules of general application. *Education Code* Section 60206 empowers the State Board of Education to adopt appropriate regulations concerning the adoption of instructional materials.

#### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The statute requires payment of a fee by a publisher or manufacturer for participation in the follow-up adoption. However, it also provides for a reduction of the fee for small publishers and manufacturers. This reduction of the fee lessens the impact on small business.

#### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

The proposed regulations reflect the requirements of the statute, *Education Code* Section 60227, and would not have a significant adverse impact on any business.

## INFORMATIVE DIGEST

The Board proposes to amend Sections 9515 and 9517 of and add Section 9517.1 to the *California Code of Regulations* (CCR). These sections concern the adoption of instructional materials for California public schools in grades K-8 and the implementation of follow-up adoptions.

The purpose of the regulations is to establish the process for follow-up adoptions and the fee to be paid by publishers and manufacturers for participation in follow-up adoptions of instructional materials for grades K-8.

*Education Code* Section 60200(b)(1) calls for adoptions to occur “not less than two times every six years” for language arts, mathematics, science, and social science and “not less than two times every eight years” in other subjects. The first instructional materials adoption following the State Board of Education adoption of new evaluation criteria is termed a “primary adoption” and creates a new adoption list. A “follow-up adoption” is any additional adoption conducted during the six- or eight-year time frame and is conducted using the same evaluation criteria as the primary adoption.

*Education Code* Section 60227 gives the Department the authority to collect a fee from publishers and manufacturers of instructional materials to participate in follow-up adoptions. The fee collected is to be used to offset the cost of conducting the adoption. Small publishers and small manufacturers may request a reduction in the fee from the Board.

*CCR, Title 5*, Section 9515 is proposed to be amended to define “primary adoption.”

*CCR, Title 5*, Section 9517 is proposed to be amended to reflect changes in practice and terminology. It also clarifies that follow-up adoptions are based on the same Invitation to Submit and evaluation criteria as the primary adoption.

*CCR, Title 5*, Section 9517.1 is proposed to be added to clarify the procedures for the follow-up adoption, including the distribution of a notice to publishers and manufacturers and the establishment of a fee for the review.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

## CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; Room 5111  
Sacramento, CA 95814



### TITLE 5. EDUCATION

## CALIFORNIA STATE BOARD OF EDUCATION

### NOTICE OF PROPOSED RULEMAKING

#### **Instruction Materials Follow-Up Adoptions** **[Notice published March 26, 2004]**

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### **PUBLIC HEARING**

Program staff will hold a public hearing beginning at **1:00 p.m. on Monday, May 10, 2004** at 1430 N Street, Room 1101, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The State Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on Monday, May 10, 2004**. The State Board will consider only written comments received by the Regulations Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, California 95814  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone: (916) 319-0860  
FAX: (916) 319-0155

#### **AUTHORITY AND REFERENCE**

Authority cited: Sections 33031 and 60206, Education Code.

Reference: Sections 32060-32066 and Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Board proposes to amend Sections 9515 and 9517 of and add Section 9517.1 to the *California Code of Regulations* (CCR). These sections concern the adoption of instructional materials for California public schools in grades K-8 and the implementation of follow-up adoptions.

The purpose of the regulations is to establish the process for follow-up adoptions and the fee to be paid by publishers and manufacturers for participation in follow-up adoptions of instructional materials for grades K-8.

*Education Code* Section 60200(b)(1) calls for adoptions to occur “not less than two times every six years” for language arts, mathematics, science, and social science and “not less than two times every eight years” in other subjects. The first instructional materials adoption following the State Board of Education adoption of new evaluation criteria is termed a “primary adoption” and creates a new adoption list. A “follow-up adoption” is any additional adoption conducted during the six- or eight-year time frame and is conducted using the same evaluation criteria as the primary adoption.

*Education Code* Section 60227 gives the Department the authority to collect a fee from publishers and manufacturers of instructional materials to participate in follow-up adoptions. The fee collected is to be used to offset the cost of conducting the adoption. Small publishers and small manufacturers may request a reduction in the fee from the Board.

*CCR, Title 5*, Section 9515 is proposed to be amended to define “primary adoption.”

*CCR, Title 5*, Section 9517 is proposed to be amended to reflect changes in practice and terminology. It also clarifies that follow-up adoptions are based on the same Invitation to Submit and evaluation criteria as the primary adoption.

*CCR, Title 5*, Section 9517.1 is proposed to be added to clarify the procedures for the follow-up adoption, including the distribution of a notice to publishers and manufacturers and the establishment of a fee for the review.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: None

Cost or savings to any state agency: Minor. Amount not covered by fee is absorbable within existing resources.

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The imposition of fees assessed on publishers and manufacturers is attributable to statute; therefore the regulations do not impose a fiscal impact on the private sector.

Adoption of this regulation will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations do not have an effect on small business because they reflect the requirements of Education Section 60227.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations should be directed to:

Patrice Roseboom, Associate Governmental Program Analyst  
California Department of Education  
Curriculum Frameworks and Instructional Resources  
1430 N Street, 3<sup>rd</sup> Floor  
Sacramento, CA 95814  
E-mail: [proseboo@cde.ca.gov](mailto:proseboo@cde.ca.gov)  
Telephone: (916) 319-0881  
FAX: (916) 319-0172

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this

notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulation as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Website at <http://www.cde.ca.gov/regulations>.

#### **REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Patrice Roseboom, Curriculum Frameworks and Instructional Resources, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 319-0881; fax, (916) 319-0172. It is recommended that assistance be requested at least two weeks prior to the hearing.



BILL NUMBER: SB 1058 CHAPTERED  
BILL TEXT

CHAPTER 806  
FILED WITH SECRETARY OF STATE OCTOBER 11, 2003  
INTRODUCED BY Senator Torlakson

FEBRUARY 27, 2003

An act to add and repeal Section 60227 to the Education Code,  
relating to children, and making an appropriation therefor.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 60227 is added to the Education Code, to read:

60227. (a) For purposes of this section, a followup adoption is any adoption other than the primary adoption that occurs within a six- or eight-year cycle established pursuant to subdivision (b) of Section 60200.

(b) Before conducting a followup adoption in a given subject, the department shall provide notice, pursuant to subdivision (c), to all publishers or manufacturers known to produce basic instructional materials in that subject, post an appropriate notice on the department's Internet site, and take other reasonable measures to ensure that appropriate notice is widely circulated to potentially interested publishers and manufacturers.

(c) The notice shall specify that each publisher or manufacturer choosing to participate in the followup adoption shall be assessed a fee based upon the number of programs the publisher or manufacturer indicates will be submitted for review and the number of grade levels proposed to be covered by each program.

(d) The fee shall offset the cost of conducting the followup adoption process and shall reflect the department's best estimate of the cost. The department shall take reasonable steps to limit costs of the followup adoption and to keep the fee modest, recognizing that some of the work necessary for the primary adoption need not be duplicated.

(e) The department, prior to incurring substantial costs for the followup adoption, shall require that a publisher or manufacturer who wishes to participate in the followup adoption first declare the intent to submit one or more specific programs for the followup adoption and specify the specific grade levels to be covered by each program. After a publisher or manufacturer has declared the intent to submit one or more programs and the grade levels to be covered by

each program, a fee shall be assessed by the department. The fee shall be payable by the publisher or manufacturer even if the publisher subsequently chooses to withdraw a program or reduce the number of grade levels covered. A submission by a publisher or manufacturer may not be reviewed for purposes of adoption, either in a followup adoption or in any other primary or followup adoption conducted thereafter, until the fee assessed has been paid in full.

(f) (1) It is the intent of the Legislature that the fee not be so substantial that it prevents small publishers or manufacturers from participating in a followup adoption.

(2) Upon the request of a small publisher or manufacturer, the State Board of Education may reduce the fee for participation in the followup adoption.

(3) For purposes of this section, "small publisher" and "small manufacturer" mean an independently owned or operated publisher or manufacturer who is not dominant in its field of operation, and who, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

(g) Notwithstanding subdivision (b) of Section 60200, if the department determines that there is little or no interest in participating in a followup adoption by publishers and manufacturers, it shall recommend to the State Board of Education that the followup adoption not be conducted, and the State Board of Education may choose not to conduct the followup adoption.

(h) Notwithstanding Section 13340 of the Government Code, revenue derived from fees charged pursuant to subdivision (c) is hereby continuously appropriated and available to the department from year to year until expended. Revenue derived from fees charged pursuant to subdivision (c) may be used to pay costs associated with any followup adoption and any costs associated with the review of instructional materials.

(i) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 2. Notwithstanding any other provision of law, funds appropriated pursuant to Provision 17 of Item 6110-161-0890 of the Budget Act of 2003 (Ch. 157, Stats. 2001) shall not be used by the Controller for recoupment of prior year audit findings.

Schedule for Curriculum Framework Development and Adoption of K-8 Instructional Materials															
Calendar Year		99	00	01	02	03	04	05	06	07	08	09	10	11	12
Have rigorous academic content standards and SBE-adopted Instructional Materials	History-Social Science	A		F		a* c		A			F a			A	
	Science	c	A		F	a*	c		A			F a			A
	Mathematics	c (A)		A			a F c			A			F a		
	Reading/Language Arts/ELD	c (A)			A		a	F c			A		a	F	
Has content standards and SBE-adopted Instructional Materials	Visual & Performing Arts					a* F c			A			a		F	
Have no standards but have SBE-adopted Instructional Materials	Foreign Language			F c		A			a			F c			A
	Health				F c		A			a			F		
Have neither standards nor SBE-adopted Instructional Materials	Physical Education						F								F

(A) = AB 2519 Additional Adoptions Process\*

A = Primary adoption

a = Follow-up adoption as scheduled prior to enactment of SB 1058 (Chapter 806, Statutes of 2003). The follow-up adoptions planned in 2003 (a\*) have not yet occurred. The follow-up adoption schedule will be revised once implementing regulations for SB 1058 are operative.

F = Framework

f = Framework update

c = Evaluation criteria

SBE = State Board of Education

ELD = English Language Development

\* The AB 2519 Adoptions were added to existing adoption lists; the list to which AB 2519 Mathematics materials were added expired June 30, 2003, while the list to which AB 2519 Reading/Language Arts materials were added expires June 30, 2005.